

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>PETER HOLYK,</b>	:	
	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:17-0435</b>
	:	
<b>v.</b>	:	<b>JUDGE MANNION</b>
	:	
<b>SCRANTON COUNSELING CENTER,</b>	:	
	:	
<b>Defendant</b>	:	
	:	

**ORDER**

In accordance with the memorandum issued this same day, **IT IS  
HEREBY ORDERED THAT:**

(1) The defendant's motion to dismiss, **(Doc. 8)** is **GRANTED** to the extent that the defendant argues that the plaintiff has failed to sufficiently allege that he was substantially limited in a major life activity and therefore that he was disabled under the ADA and Rehabilitation Act. Dismissal is **WITHOUT PREJUDICE** to allow the plaintiff to amend his claim to sufficiently allege the major life activity impacted by his impairment, as well as the extent to which his impairment caused limitation.

(2) The defendant's motion to dismiss, **(Doc. 8)**, is **GRANTED** to the extent that the defendant argues that the plaintiff has failed to sufficiently allege that he was regarded as having an

impairment which substantially limited one or more major life activities. Dismissal is **WITHOUT PREJUDICE** to allow the plaintiff to amend his claim to set forth sufficient allegations that the defendant regarded him as having an impairment that substantially limited one or more major life activities.

(3) The defendant's motion to dismiss, (**Doc. 8**), is **GRANTED** to the extent that the defendant argues that the plaintiff has failed to sufficiently plead disability discrimination under the PHRA. Dismissal is **WITHOUT PREJUDICE** to allow the plaintiff to amend his claim to set forth sufficient factual allegations of disability discrimination under the PHRA.

(4) The defendant's motion to dismiss, (**Doc. 8**), is **GRANTED** to the extent that the defendant argues that the plaintiff has failed to properly allege causation under the ADA, Rehabilitation Act and PHRA. Dismissal is **WITHOUT PREJUDICE** to allow the plaintiff to set forth sufficient factual allegations of causation as to his ADA, Rehabilitation Act, and PHRA claims.

(5) The defendant's motion to dismiss, (**Doc. 8**), is **GRANTED** to the extent that the defendant argues that the allegations of the plaintiff's complaint do not raise a plausible inference of age

discrimination. Dismissal is **WITHOUT PREJUDICE** to allow the plaintiff to provide sufficient factual allegations as to his age discrimination claims.

(6) The defendant's motion to dismiss (**Doc. 8**), is **DISMISSED AS MOOT** to the extent that the defendant argues that the plaintiff is barred from recovering punitive damages under the ADEA, the Rehabilitation Act or the PHRA and from recovering compensatory damages under the ADEA.

(7) The defendant's motion to dismiss, (**Doc. 8**), is **DENIED** to the extent that the defendant argues that the plaintiff's request for punitive damages under the ADA should be dismissed and that the plaintiff has not properly alleged a right to recover compensatory damages under the Rehabilitation Act.

(8) The defendant's motion to dismiss, (**Doc. 19**), is **DENIED** to the extent that the defendant argues that the plaintiff has not alleged facts sufficient to show that he has a plausible claim for relief based on retaliation under the ADEA, the ADA, or the Rehabilitation Act.

(9) The defendant's motion to dismiss, (**Doc. 19**), is **GRANTED** to the extent that the defendant argues that compensatory and

punitive damages are not available under the ADA's anti-retaliation clause.

(10) The defendant's motion to dismiss, (**Doc. 19**), is **DISMISSED AS MOOT** to the extent that the defendant argues that compensatory and punitive damages are unavailable under the ADEA.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: January 29, 2018**

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